

I didn't hear.

A Container Corporation of America.

(Mr. Jackson and the defendant
confer.)

BY THE DEFENDANT:

Q You are familiar with crime in Philadelphia
and across the country. I am sure you probably
developed an opinion. Now, without telling us what
that opinion is, would that opinion tend to interfere
with your ability to decide the facts in this case?

MR. MCGILL: Objection, Your Honor.

THE COURT: I will allow that.

MR. MCGILL: You may answer.

THE VENIREPERSON: I really don't
know what you are getting at, sir, to be
honest with you. Opinion about what?

BY THE DEFENDANT:

Q Crime.

A In general?

Q In general in Philadelphia and across America.

A I really don't know. I have never had any
feelings about it to be very honest with you.

(Mr. Jackson and the defendant
confer.)

BY THE DEFENDANT:

Q Do you think your opinions or feelings about crime will interfere with your decision-making ability in this case?

MR. MCGILL: Objection, Your Honor. There has been no feelings expressed in order to reach --

THE COURT: I will have to sustain the objection.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Do you think your opinion about crime would interfere in any way with your judgments in this case?

A I really don't know what you mean by my opinion about crime. Explain it to me, then maybe I can answer you.

Q Do you have an opinion about crime?

A It's wrong. Anybody who does anything wrong, it's against the law. That's all I can tell you.

Q Because you think crime is wrong, would it interfere with your judgment in this case as a juror?

MR. MCGILL: Your Honor, I would

object.

THE VENIREPERSON: I really don't know what you are getting at to be very honest with you, sir, I don't.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q If you were selected as a member of this panel and the verdict of guilty of first degree murder was rendered, could you come back with a decision of the death penalty against me?

MR. MCGILL: Objection, Your Honor.

THE COURT: Sustained.

THE VENIREPERSON: I don't think I can answer that.

THE COURT: Sustained.

MR. JACKSON: I didn't hear her response.

THE COURT: He objected to the way the question was phrased. I sustained it.

BY THE DEFENDANT:

Q If you were selected as a member of the

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jury panel and a guilty verdict of murder first degree is rendered, could you impose the death penalty?

MR. MCGILL: Again, objection.

THE COURT: Sustained.

Rephrase the way the question is phrased.

THE VENIREPERSON: I really don't know.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, in a proper case where a jury has found guilt of first degree murder could you return a penalty of death?

MR. MCGILL: Your Honor, I would object.

THE VENIREPERSON: I can't answer that.

You are making me very nervous, I will be very honest with you.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, I apologize for your nervousness,

but what we are trying to get from you obviously are some of your views on capital punishment, because that is an issue in this case.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Is there some reason why you can't answer the question in reference to the death penalty?

MR. MCGILL: I would object, Your Honor, not properly phrased.

THE COURT: Sustained.

If you ask the question properly, then she will be able to answer it.

Mr. Jackson, will you please tell him how to ask the question.

(Mr. Jackson and the defendant confer.)

BY THE DEFENDANT:

Q Mrs. Nocito, do you have any religious, philosophical or moral principles that would prevent you from imposing a death penalty?

A I don't think anybody should take anybody's life.

I'm very sorry. Please, Your Honor,
may I be excused?

MR. MCGILL: Yes, Your Honor, I believe
that under the circumstances the nervousness
of the juror is pretty clear. I challenge for
cause.

THE COURT: You are excused.

COURT OFFICER: 35, Edna Bradley.

...EDNA M. BRADLEY...

BY MR. MCGILL:

Q Is that Mrs. Bradley?

A Yes.

Q Good afternoon, Mrs. Bradley. I'm going to
be asking you some questions, and then Mr. Jamal will
be asking you some questions. Okay?

A Yes.

Q Now, what section of the City do you live in?

A North Philadelphia.

Q How long have you lived there?

A Since '75.

Q What is the zip code there?

A 19121.

Q Now, Mrs. Bradley, have you ever been a juror

before?

A No.

Q Are you presently employed?

A Yes, I am.

Q What is the nature of your occupation?

A I work in a ladies' garment factory.

Q How long have you worked there?

A For five years now.

Q Are you married?

A Yes, I am.

Q Is your husband employed?

A No. My husband is on disability.

Q Before he went on disability, what was the nature of his work?

A He worked in a mattress factory.

Q Do you have children?

A Yes, I have a daughter.

Q Is she in the City?

A No.

Q Does she work?

A No, she is not working now.

Q Now, Mrs. Bradley, have you or anyone close to you ever had any kind of unpleasant experience with

the Philadelphia Police that may in any way prevent you from being fair and impartial in this case?

A No.

Q Do you have any kind of conscientious, religious, personal, or social opinions or beliefs that would prevent you in the proper case from imposing the death penalty?

A Yes.

Q Is it a religious belief?

A It's my belief.

Q Your own personal belief?

A Yes.

Q Is it one you have held for a long time?

A All my life.

Q Is it a firm and fixed opinion that you will always hold?

A Yes. I don't believe in giving judgment on a party.

Q No matter what the Judge or anyone else says, you will still hold to that opinion; is that correct?

A Yes.

MR. MCGILL: Thank you very much for your candor.

Challenge for cause, Your Honor.

(Mr. Jackson and the defendant
confer.)

BY THE DEFENDANT:

Q Mrs. Bradley, could you think of any
incident that could justify in your belief or your
opinion the imposition of the death penalty?

A Beg your pardon?

Q Could you think of any incident, any incident
that could justify the imposition of the death penalty?

A No, I don't.

MR. MCGILL: Challenge for cause,
Your Honor.

Let's move on if we can.

THE COURT: You are excused.

Thank you.

COURT OFFICER: 360, Ruth Swenk.

...RUTH SWENK...

BY THE DEFENDANT:

Q Miss Swenk, is that Mrs. or Miss?

A It's Mrs.

Q What area of the City or neighborhood do you
presently live in?

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A I beg your pardon?

A What are of the City or neighborhood do you presently live in?

A Roxborough.

Q Roxborough?

A Yes.

Q How long have you lived in Roxborough?

A All my life.

Q How far did you go in school, Mrs. Swenk?

A How far did I go?

Q Yes, ma'am.

A About two miles to grammar school.

How far? I'm sorry. I graduated from high school and I took business courses at night.

Q What kind of work do you do, Mrs. Swenk?

A I work in an office.

Q What kind of work, secretary?

A I'm a payroll supervisor in accounting.

Q What kind of work does your husband do?

A My husband is deceased.

Q Do you have children, Mrs. Swenk?

A No.

Q You said you took some business courses.
Would that include any legal training or school?

A No.

Q Who lives in the household with you, Mrs.
Swenk?

A I would rather not answer that.

MR. MCGILL: I would object then,
Your Honor. I think it's appropriate.

BY THE DEFENDANT:

Q Could you tell us the occupation of the person
or persons who live with you?

MR. MCGILL: I would object, Your
Honor.

THE COURT: Sustained.

THE DEFENDANT: Can we see you at
side-bar, Judge? We would like to discuss
this.

(Mr. Jackson and the defendant
confer.)

(Side-bar conference in the
presence of the Court, Mr. McGill, Mr.
Jackson and the defendant reported as
follows:

MR. MCGILL: I object to it as being irrelevant, Your Honor.

THE DEFENDANT: Your Honor, it obviously has relevancy.

MR. MCGILL: It has no relevancy.

THE DEFENDANT: You don't know who lives there, what the occupations are or the inferences of it.

THE COURT: She may be there living alone and she may not want to go into detail.

THE DEFENDANT: She said she didn't want to identify who.

MR. MCGILL: It's not really relevant.

THE DEFENDANT: What if it's a police officer?

THE COURT: She would have answered that question.

THE DEFENDANT: She did not want to give any information. We don't know that.

THE COURT: I don't really care who lives in that house.

MR. JACKSON: Judge, it just seems to

me that without us being able to inquire -- first of all, you have already approved us asking who lives with someone. That was one of the questions we previously asked. Now I suppose you are saying that you are going to overrule it?

THE COURT: She said her husband is dead.

MR. MCGILL: Judge, I object to this.

THE COURT: Then she doesn't want to go further into it.

MR. MCGILL: It's not relevant. It's not necessary.

MR. JACKSON: That's what he says, it's irrelevant. We haven't --

MR. MCGILL: The Judge made a decision.

THE DEFENDANT: Let the man finish.

MR. MCGILL: You don't have to know who lives in the house.

MR. JACKSON: We don't need to know what influences she is under?

THE COURT: I am saying if she doesn't

want to say who lives in the house, as far as I'm concerned it's irrelevant.

MR. JACKSON: Even though you said it's a question we could ask?

THE COURT: What relevance is it if she's living with a man? What difference does it make?

MR. JACKSON: You made a ruling before we started this proceeding.

THE COURT: I have to take each one individually. I can't make a general ruling for everybody.

MR. MCGILL: It's obvious what with this reaction of jurors to the asking of these questions, there may well be a motion. I will have to review all of this whole procedure.

Judge, it's clear to me that I think the situation is becoming obviously difficult for these jurors.

THE COURT: I overrule the objection.

(End of side-bar conference.)

(Mr. Jackson and the defendant

confer.)

BY THE DEFENDANT:

Q Mrs. Swenk, you have indicated you read or heard something about this case; right?

A Yes, I have.

Q Could you tell us what you have read or heard?

MR. MCGILL: Objection.

THE COURT: No, I will let him go into that.

MR. MCGILL: If she can remember.

THE VENIREPERSON: I have read a great deal about it.

BY THE DEFENDANT:

Q I couldn't hear.

A I have a read a great deal about it.

Q Could you tell us what you have read or heard based on your memory?

A I just can't tell you, but I read a great deal. There was even an article in this morning's paper.

(Mr. Jackson and the defendant

confer.)

BY THE DEFENDANT:

Q You have said you read a great deal; right?

A Yes.

Q As a result of what you have read, can you disregard all of what you have read in order to make a judgment in this case based on information coming from the witness stand?

A I can't honestly tell you that, I don't know.

THE DEFENDANT: Challenge for cause.

BY MR. MCGILL:

Q Mrs. Swenk, if you were selected as a juror, it would be your job to listen to the evidence, reach a verdict based on the evidence. Do you understand that would be your role?

A Yes, I know that.

Q The Judge would say to you and instruct you that anything you read, whether this case or any other case at all, must just be put aside and you base your verdict on the evidence no matter what it would be. You base it on the evidence. Could you follow that instruction?

A I guess so.

Q And to that extent you would certainly not

convict someone merely because you have read something about him, would you?

A I hope not.

Q Or for that matter acquit somebody because you have read something?

A No.

Q Would you then follow the law that the Court would give you, which would state if you were selected as a juror to simply follow the evidence and the instructions of the Court, reach a verdict based on the evidence alone? Would you be able to do that?

A Yes.

MR. MCGILL: Thank you.

THE VENIREPERSON: Can I say something?

THE COURT: You can say anything you want to.

THE VENIREPERSON: For one thing, I don't think I would be a fair witness.

THE COURT: Are you nervous?

THE VENIREPERSON: I'm very nervous, but that's not why.

BY MR. MCGILL:

Q Let me ask you a question.

I am not going to challenge the challenge for cause.

Before you answered these questions here and having Mr. Jamal ask you questions, that makes you feel very, very unsettled, doesn't it?

A Yes, it does.

Q As a matter of fact, it scares you, doesn't it?

THE DEFENDANT: Objection.

THE VENIREPERSON: Yes. It scares me to death.

MR. MCGILL: Your Honor, I think we better have a motion about this whole procedure.

(Side-bar conference in the presence of the Court, Mr. McGill, Mr. Jackson and the defendant reported as follows:

MR. MCGILL: Your Honor, in my opinion this juror, along with a number of other jurors, have shown me this procedure just cannot prevail.

Your Honor, it is my suggestion -- and I will provide case law for it -- that

insofar as Mr. Jamal was charged with an extremely serious crime in this particular case, is himself asking direct questions to jurors, that it is to such degree unsettling to many of the jurors that I have seen that the answers cannot be clear, are in some cases confusing and providing a certain fear as indicated by this last juror.

Because of this, Your Honor, I would ask that Your Honor consider at this early time -- if Your Honor wishes to continue as far as the rest of today is concerned, that is fine, because I do have a deferred later, as I mentioned I think yesterday morning.

I am going to provide case law tomorrow morning, and particularly with reference to this juror as others as I have seen, I will petition this Court to handle all questions to all venirepersons. I will ask this Court to require questions from the Commonwealth as well as the defense, and that from that we can go over the questions that Your Honor feels would be relevant to the issues

in this case since we are going far afield and becoming quite personal.

So my petition and my motion to this Court is to cease this particular procedure at this point. Having an opportunity of two days of this procedure, it is clear to me that a juror -- these jurors are extremely unsettled during the course of this questioning, and who wouldn't be?

Mr. Jackson apparently thinks this is amusing.

Who wouldn't be when you have someone convicted of a crime of this nature asking you questions?

THE DEFENDANT: I haven't been convicted of any crime.

MR. MCGILL: Excuse me, accused of a crime. That was said in error, Mr. Jamal.

THE DEFENDANT: It wasn't the first.

MR. MCGILL: He was accused.

I will say this, Your Honor, that anymore of this procedure is just in my opinion too difficult to obtain a fair and impartial

juror. Now, we can do one of two things: If you want to go out of the County and get a jury, that's one thing. Secondly, it will be more important -- and I think this is one which is more practical -- Your Honor should ask the questions.

MR. JACKSON: Are you finished, sir?

MR. MCGILL: Yes, sir.

MR. JACKSON: Your Honor, on behalf of Mr. Jamal, Your Honor has certainly sat on a number of homicide cases. I don't know one homicide yet where I have selected a jury where most of the jurors are not nervous. To interject that nervousness in this case by Mr. Jamal I think is fallacious. Mr. McGill has tried a number of homicide cases and Your Honor well knows all jurors are nervous when they come in for the first time. They are being asked a lot of questions, which seemingly are personal.

To suggest that Mr. Jamal is in any way causing any disruption to this Court I think is unfounded. He is representing himself.

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I don't see that in any way this proceeding is in any way being disrupted. Perhaps Mr. Jamal is not asking the questions as fast as Mr. McGill would like, but Mr. McGill doesn't ask questions as fast as Mr. Jamal would like. So I don't think that in and of itself is any reason to suggest or threaten to us that he is going to file some motion that would take out of Mr. Jamal's control the opportunity to question the jurors as he has.

I think those jurors who have indicated that they are nervous or for some reason don't want to serve, they have so stated. That's the way it is always done, whether there is counsel asking the question or Mr. Jamal. I don't think counsel has said anything at all that would suggest that Mr. Jamal is in any way causing any fear in anyone any more than asking, if I was conducting the voir dire, "Does this man sitting next to me cause you some fear?"

THE COURT: But this last juror definitely said that, this last prospective

juror had said that.

Let me say this to you: Look up the law and I will act accordingly.

I can see that this is going to be a long drawn-out procedure and it may very well be that the Court will have to take over the questioning.

THE DEFENDANT: Judge, can I say something?

MR. MCGILL: Judge, I have not responded to Mr. Jackson.

I am not now saying that Mr. Jamal is being disruptive. That is not the issue. The issue, as I have expressed to the Court, is very clear in terms of the length of time, but more important than that, the obvious, unsettled state by each venireperson in looking at an individual charged with this crime who is asking them their opinions literally. These questions can be asked, these same rights can be held, those same rights can be safeguarded by these questions that Your Honor feels are appropriate to be

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asked by this Court.

I have been in a number of courtrooms, including Judge Ribner's courtroom, where the individual judge will ask the questions to the jurors. Usually it is done to expedite matters. In this case it would be done for two reasons: expedite matters and also to provide a measure of balance in a rather difficult, unique situation.

THE DEFENDANT: Can I comment, Judge, only that theoretically this process, the voir dire, is supposed to provide me with a jury of my peers.

I find that, except for the last juror who said that she was not intimidated, not in fear, but merely unsettled, I think by the nature --

THE COURT: She didn't say unsettled. She said she was scared.

THE DEFENDANT: She said she was unsettled. Those words he suggested to her.

THE COURT: I could very well see that this juror was frightened. She was

looking to me.

MR. MCGILL: If you follow back, Judge, just listen to what she said. If you look at the record, you will see.

THE DEFENDANT: Can I finish, Judge?

THE COURT: Better look up the law, because it is a long drawn-out procedure. Mr. Jamal is asking questions, and if he objects to it, I sustain it. Then I tell him to rephrase it. He's conferring with you. It is becoming a really lengthy procedure to that extent. We haven't gone really anywhere. We have spent two days, and in the two days we only have one juror.

MR. JACKSON: Judge, I have gone this long --

THE COURT: And that was an accident really that we were lucky enough to get that one.

THE DEFENDANT: Judge, can I interject a point?

MR. MCGILL: Let the Judge finish.

THE DEFENDANT: Only that this is

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obviously not the first time that a person charged with crime has conducted a voir dire.

THE COURT: I have already conducted a voir dire myself in homicide cases, so that's nothing new. It can be done. I have done it. No defendant has ever done it in any case in which I presided. I have done it myself in a case.

THE DEFENDANT: The point I am saying --

THE COURT: I did in a case where there were seven defendants and it was more expedient for me to do it than to have seven attorneys ask questions and then the DA ask questions. It would have been almost impossible.

Obviously, this is becoming the same thing here. It's becoming a long drawn-out affair here, and I think we will be months before we get a jury at the rate we are going.

MR. MCGILL: I strongly object to this continuing in the way it is.

MR. JACKSON: Mr. McGill, you asked Mr. Jamal to wait until the Judge finished. As soon as the Judge took a breath, then you interjected. I think Mr. Jamal ought to have an opportunity to finish his point with the Judge.

MR. MCGILL: Sometimes I get confused about who is representing who.

THE DEFENDANT: I don't think you are ever confused about that.

MR. MCGILL: I keep hearing two voices over there.

THE DEFENDANT: If you listen hard enough.

I think the point is that -- I don't know about your history in terms of how you have handled voir dices, but the individual voir dire has been done in several Federal cases. I think Russell Means vs. State of South Dakota vs. U.S. Government. Obviously, the process is to determine a fair and impartial juror. I don't think any of my questions have been improper. If they have,

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you have ruled on them, it's sustained.

I think except for this last juror who said she was unsettled, none of them have been intimidated. I think the inference --

THE COURT: The one before her wasn't too anxious to serve either.

THE DEFENDANT: Judge, there's a lot of people who are not anxious.

THE COURT: She stated she was scared.

THE DEFENDANT: This is an intimidating courtroom.

THE COURT: Let me say this: You look over the law. You cite me some cases tomorrow, and I may very well have to make a decision.

MR. MCGILL: I will tell you this, Judge: If I were in their position, I would be scared.

THE DEFENDANT: You are pretty prejudiced.

MR. MCGILL: I would be scared, that's what I would be.

THE DEFENDANT: I think you are scared of something else.

MR. JACKSON: The point is, Judge, jurors come into homicide cases where capital punishment is sought and I would say virtually all of them are scared.

Now, Mr. McGill is an experienced homicide attorney and, Judge, you hear homicides and you know that's true. Now to say that it's only because of Mr. Jamal is unfair, because I know most of the jurors who come in to capital cases are scared. Now to say that it's because of him and because of the nature and the publicity of this case --

THE COURT: I will give you a chance to look up the law. That's the problem, the *publicity and everything*. That's why I told you you are going to have difficulty getting a jury in the first place. I don't want to make it that much more difficult with the way we are going. Look up the law and I will make a decision.

(End of side-bar conference.)

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(Mr. Jackson and the defendant confer.)

THE COURT: Gentlemen, can I interrupt you for a minute? I have gotten a note from the court crier that No. 48, Louis Buongiorno, has indicated that if he's not called today he's not going to come back tomorrow. I notice that he has indicated he has a hardship. It seems to me that there is at least one other one.

MR. MCGILL: Your Honor, if it please the Court, I would have no objection if we take out of order the hardships. I normally would object to this, but under the present circumstances where Your Honor will be considering a motion certainly by tomorrow morning, that if we take the hardships out of order, Your Honor, perhaps we could find out whether there is any substance to that statement by them and we can have them dismissed, if it is so ordered by this Court.

THE COURT: Well, I see two hardships that we have left, that we haven't

considered. That's No. 48 and No. 529,
Benjamin Cohen.

Is there anyone else on your list
that you see we have missed?

MR. JACKSON: Dorothy Snyder.

THE COURT: We already excused her.

I am talking about the ones that
are still waiting. I only have two.

Do you want to take those two out
of order so we can see what their problems
are and maybe get rid of them, rather than
have them hang around?

Is it by agreement, gentlemen?

THE DEFENDANT: Yes, Judge.

MR. MCGILL: Yes, Your Honor.

THE COURT: Let's take 48 and 529
next and let's see what their problem is.

We will take a five-minute recess
while he is getting them.

(Brief recess.)

COURT OFFICER: 48, Louis Buongiorno.

...LOUIS J. BUONGIORNO...

THE COURT: Commonwealth.

BY MR. MCGILL:

Q Mr. Buongiorno, I think you indicated that you had a hardship if you were selected as a juror in this case. Is that true?

A That's right.

Q Would you tell us what the hardship is?

A Well, I've been out of work for four years, laid off. I worked in construction. I just got back to work. All of my savings are gone. I live from week to week with my paycheck. There's no way I can be tied up for any length of time.

MR. MCGILL: I have no objection that Mr. Buongiorno be excused.

THE DEFENDANT: I have no objection, Judge.

THE COURT: You are excused.

COURT OFFICER: 529, Benjamin Cohen.

...BENJAMIN E. COHEN...

BY THE DEFENDANT:

Q Mr. Cohen, what area of the City or neighborhood do you live in?

A Northeast Philadelphia.

THE COURT: It's a hardship.

BY THE DEFENDANT:

Q You indicated that you have a hardship that would prevent you from serving on this jury. Could you tell us what that is, sir?

A Yes, sir. I'm self-employed. I manage an apartment complex and I'm there to try to quell a problem the tenants are having. There is an uprising, a tenant rebellion, you might say, and we have had to change the superintendents. We have the security guards there. We have detectives. It's quite a tense situation there.

MR. MCGILL: I have no objection that Mr. Cohen be excused, Your Honor.

THE DEFENDANT: I have no objection, Judge.

THE COURT: You are excused.

MR. MCGILL: Your Honor, may I also make the suggestion out of order that No. 197 be called, Leroy Kleinguenther. He indicated that I don't think he can follow the law and he may have a fixed opinion of the guilt of Mr. Jamal. I think we can take him out of order.

THE COURT: He answered the question, does he believe the defendant guilty merely because he is here?

MR. MCGILL: Yes.

THE COURT: Let's take 197.

COURT OFFICER: 197, Leroy Kleinguenther.

...LEROY KLEINGUENTHER...

BY MR. MCGILL:

Q Good afternoon, Mr. Kleinguenther. How are you today?

A Fine.

Q- I'm going to ask you directly about a question that you responded to. Remember you stood up to a question?

A That's right.

Q Now, as I recall the question, I think the Judge had asked you something like whether or not you would be, you feel that the defendant was guilty merely because he was here. In other words, he was standing trial, therefore he was guilty.

Did you stand for that question?

A That's right.

Q What did you mean by that?

A Well, I meant if I didn't think he was -- if he wasn't guilty of something, he wouldn't be here at this length of time being held for the length of time that he has been.

Q Now, Mr. Kleinguenther, in a very brief fashion, the defendant has been held because the nature of the charges were such that no bail was set. Do you understand that now that I tell you?

A Yes, I understand that.

Q That is legally why he was held. Do you understand that?

A Yes, I understand that.

Q Keeping that in mind, the Court would instruct you that no matter how you feel, whether you have a fixed opinion of guilt or whatever, an opinion of guilt or innocence, you must set this aside and base a verdict solely on the evidence. Do you understand that is what the Court would ask you to do?

A I understand that, yes.

Q Also, the Court would say, much like yourself, myself, anybody who stands trial, the purpose for a

trial is to determine guilt or innocence. Do you understand that?

A That's true.

Q Now, do you accept both of those principles?

A Well, yes, to a point.

Q Would you explain what point?

A Well, up to this time, what I have read and heard on radio and television and all it would be pretty hard for somebody to change the opinion that I have.

THE DEFENDANT: Challenge for cause.

BY MR. MCGILL:

Q You would say that you really have a fixed opinion of the guilt, defendant's guilt? Is that what you are saying?

A I would say that.

MR. MCGILL: Thank you.

The Commonwealth would challenge for cause on that point.

THE COURT: You are excused.

THE DEFENDANT: Judge, can I continue the individual voir dire as we have done before?

MR. MCGILL: Judge, I will object to the continuance. I think this motion is important. I also have a deferred myself that I think Your Honor is aware of.

I will have law tomorrow morning and I will be prepared to offer this Court a list of the questions which I believe to be appropriate, relevant, and that would safeguard both the interests of the Commonwealth as well as the defendant. I have no objection also if Mr. Jamal would submit questions.

THE COURT: We will adjourn until tomorrow to give you an opportunity to look up the law on this point which you raise, which is for me to conduct voir dire.

Of course, I know you have some of the questions here that you want, but you might want to redo them and fashion them with respect to the factual situation of this case. I think your big problem with this last juror who has read and seen and heard so much about the case, that may be the central point for you to concentrate on. Of course,

the District Attorney is going to concentrate on the death penalty.

THE DEFENDANT: May I be heard, Judge?

THE COURT: What's that?

THE DEFENDANT: I understand Mr. Jackson is going to be doing legal research.

THE COURT: You can do it too. I don't know if you have the facilities at the prison. Mr. Jackson will. I will make my decision tomorrow.

THE DEFENDANT: Judge, am I going to be allowed to represent myself in this matter? Will I be able to represent myself?

THE COURT: You are representing yourself. It's just a question of who should conduct the voir dire, whether the Court should do it or whether the attorneys should do it.

THE DEFENDANT: Are you supporting my right to a jury of my peers, Judge?

THE COURT: Certainly, but conducting the voir dire has nothing to do with a jury

of your peers.

THE DEFENDANT: I disagree.

THE COURT: Your attorney will
look up the law.

THE DEFENDANT: I understand that,
Judge.

THE COURT: And I will make my
decision tomorrow.

THE DEFENDANT: I think your decision
has already been made.

THE COURT: No, it hasn't. Give
me an opportunity. I told you before I have
conducted voir dires and other judges have.
So it's not that it's a novel issue, but I
want you to look up the law.

We will adjourn to tomorrow morning,
9:30.

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(Adjourned.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.



Official Stenographer

The foregoing record of the proceedings upon the trial of the above cause is hereby approved and directed to be filed.

Judge